

1 James P. Baker (State Bar No. 096302)  
2 Katherine S. Ritche (State Bar No. 178409)  
3 Elaine Wallace (State Bar No. 197882)  
4 JONES DAY  
5 555 California Street, 26th Floor  
6 San Francisco, CA 94104  
7 Telephone: (415) 626-3939  
8 Facsimile: (415) 875-5700  
9 Email: jpbaker@jonesday.com  
10 Email: ksritche@jonesday.com  
11 Email: ewallace@jonesday.com

E-filing

12 Attorneys for Defendants  
13 Lawrence J. Mazzola; Lawrence Mazzola, Jr;  
14 William B. Fazande; Larry Lee; James R. Shugrue;  
15 Vohon J. Kazarian; Tom Irvine; Robert E. Buckley;  
16 Robert Buckley, Jr; Art Rud; Ron Fahy; Robert  
17 Nurisso; Frank Sullivan; U.A. Local 38 Pension  
18 Trust Fund; U.A. Local 38 Health & Welfare Trust  
19 Fund; U.A. Local 38 Apprentice & Journeyman  
20 Training Trust Fund; U.A. Local 38 Scholarship  
21 Trust Fund; U.A. Local 38 Vacation and Holiday  
22 Trust Fund; U.A. Local 38 Convalescent Trust Fund  
23 and Richard L. Milsner

14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA

16 ELAINE L. CHAO, Secretary of Labor,  
17 United States Department of Labor,

18 Plaintiff,

19 v.

20 LAWRENCE J. MAZZOLA, et al.,

21 Defendants.

22 Case No. C 04 4949 PJH

23 STIPULATED REQUEST FOR ORDER  
24 SHORTENING TIME ON MOTION TO  
25 STRIKE REBUTTAL REPORT OF  
26 PLAINTIFF'S EXPERT, SUZANNE R.  
27 MELLEN; and [PROPOSED] ORDER

28 Hearing Date: November 8, 2006

Time: 9:00 AM - 2:30 P.M.

Courtroom: Courtroom 3, 17<sup>th</sup> Floor c, 18<sup>th</sup> fl.

Judge: Hon. Phyllis J. Hamilton

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1 Pursuant to Civil L.R. 6-2, Defendants Lawrence J. Mazzola, Lawrence Mazzola, Jr.,  
 2 William B. Fazande, Larry Lee, James R. Shugrue, Vohon J. Kazarian, Tom Irvine, Robert E.  
 3 Buckley, Robert Buckley, Jr., Art Rud, Ron Fahy, Robert Nuriuso, Frank Sullivan, U.A. Local 38  
 4 Pension Trust Fund, U.A. Local 38 Health & Welfare Trust Fund, U.A. Local 38 Apprentice &  
 5 Journeyman Training Trust Fund, U.A. Local 38 Scholarship Trust Fund, U.A. Local 38 Vacation  
 6 and Holiday Trust Fund, U.A. Local 38 Convalescent Trust Fund, and Richard L. Milsner  
 7 (collectively, "Defendants"), and Plaintiff Elaine Chao, Secretary of Labor, United States  
 8 Department of Labor ("DOL"), through their respective counsel, hereby request the Court shorten  
 9 the time for briefing and hearing Defendants' Motion to Strike the Rebuttal Report of Plaintiff's  
 10 expert, Suzanne R. Mellen.

11 The parties request an expedited briefing schedule because Ms. Mellen is scheduled to be  
 12 deposed on November 17, 2006, which is the last day in which the parties can conduct discovery  
 13 pursuant to this Court's pretrial scheduling order. Defendants believe that Ms. Mellen's opinions  
 14 regarding the Integra Realty Resources Appraisal are improper "rebuttal" opinions, and should  
 15 have been presented with opening expert disclosures. Moreover, Defendants will contend in their  
 16 motion to strike that their ability to cross examine Ms. Mellen at deposition on her opinions has  
 17 been prejudiced by the late disclosure of her opinions. The DOL does not agree with these  
 18 assertions, but agrees that the issue should be resolved prior to Ms. Mellen's deposition so that  
 19 the parties can efficiently conduct Ms. Mellen's deposition. This Court's ruling on whether Ms.  
 20 Mellen's opinions on Defendants' motion to strike will materially affect Ms. Mellen's deposition  
 21 and counsels' preparation.

22 Pursuant to Civil L.R. 6-2, the reasons for the requested shortening of time are also set  
 23 forth with particularity in the accompanying Declaration of Katherine Ritchey in Support of  
 24 Stipulated Request for Order Shortening Time.

25 The proposed briefing and hearing dates, as agreed to by the parties and subject to the  
 26 Court's availability and approval, are as follows:

27 Defendants' opening brief due: October 18, 2006

28 Plaintiff's opposition brief due: October 25, 2006

1 Defendants' reply brief due:

October 31, 2006 *by 12:00 P.M.*

2 Hearing:

November 8, 2006 at 9 a.m. *2:30 P.M. before*

Dated: October 18, 2006

JONES DAY

*Judge Chen  
Courtroom C, 15th fl.*

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4 By: /s/ - Katherine S. Ritchey

Katherine S. Ritchey

5

6 Attorneys for Defendants

7 Lawrence J. Mazzola et. al

8

Dated: October 18, 2006

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10 By: /s/ - Peter Dolan

Peter Dolan

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12 Attorney for Plaintiff Elaine L. Chao,  
13 Secretary of Labor, United States  
Department of Labor.

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15 [PROPOSED] ORDER

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**PURSUANT TO STIPULATION, IT IS SO ORDERED:**

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19 Dated: October 20, 2006

  
PHYLЛИS J. HAMILTON

UNITED STATES DISTRICT COURT JUDGE

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EDWARD M. CHEN

UNITED STATES MAGISTRATE JUDGE

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